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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09 802,949	03 12 2001	Yen-Kuen Shiao	239C	4797

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Alice L. Chen
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Silver Spring, MD 20906

EXAMINER

HRUSKOCI, PETER A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 06 18 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SA

Office Action Summary

Application No.

09/802,949

Applicant(s)

SHIAU ET AL.

Examiner

Peter A. Hruskoci

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1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-4, 8, 9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 5-7 and 10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The applications disclosed on page 1 of the specification should be included in the Declaration to claim benefits under 35 USC 120.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nice in view of Delphia. Nice disclose (see col. 1 line 32 through col. 2 line 61) disclose a process for treating contaminated water with sand coated with a silver compound substantially as claimed. The claims differ from Nice by reciting that the sand is utilized in a specific water tank. Delphia disclose (see col. 3 line 46 through col. 4 line 75) that it is known to utilize sand as a filter material in a tank, and pass water downwardly through the sand to remove impurities from the water. It would have been obvious to one skilled in the art to modify the process of Nice by utilizing the recited water tank in view of the teachings of Delphia, to aid in removing impurities from the water.

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4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nice in view of Delphia as above, and further in view of Hansen et al.. The claims differ from the references as applied above by reciting that the water is introduced at the outlet, and passed upwardly through the filter, to provide clean water at the inlet. Hansen et al. disclose (see col. 5 line 18 through col. 6 line 39) that it is known to utilize germicidal filter materials in both the traditional downflow filtration as well as upflow filtration. It would have been obvious to one skilled in the art to modify the references as applied above by introducing water at the outlet in view of the teachings of Hansen et al., to aid in removing impurities from the water by upflow filtration.

5. Applicant's election with traverse of Claims 1-4, 8, 9, and 11 in Paper No. 5 is acknowledged. The traversal is on the ground the apparatus is designed specifically for the process, particularly claim 7. This is not found persuasive the process of Group I has a separate classification and status in the art, and would require a different field of search from the filter of Group II. The process claims of Group I would require the examination of different issues of patentability from the filter claims of Group II. Furthermore, the law has long been established that dependent inventions may be restricted if they are distinct inventions (see MPEP 802.1). The inventions of Group I and Group II are considered to be distinct from one another in accordance with MPEP 806.05(c).

The requirement is still deemed proper and is therefore made FINAL.


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (703) 308-3839. The examiner can normally be reached on Monday through Friday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Blaine Copenheaver, can be reached on (703) 308-1261. The fax phone number for this Group is (703) 872-9310 (non-after finals) and 703-872-9311 after finals.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661 .


Peter A. Hruskoci
Primary Examiner
Art Unit 1724

P. Hruskoci
June 11, 2003